

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DON RATHBURN and TERESA  
RATHBURN, Husband and Wife,

**Plaintiffs,**

Case No. 3:18-cv-00133-LRH-WGC

ORDER

v.

KNIGHT TRANSPORTATION, INC.;  
KNIGHT REFRIGERATED, LLC; KNIGHT-SWIFT TRANSPORTATION HOLDINGS, INC.; CAROL WALKER; JOHN DOES I through X, inclusive; ABC CORPORATIONS I through X, inclusive; and BLACK AND WHITE COMPANIES I through X, inclusive,

#### Defendants.

TERRI KNAACK, individually, and as  
Administrator of the Estate of Joseph Knaack,  
deceased, ANDREW KNAACK,

### **Plaintiffs.**

v.

KNIGHT TRANSPORTATION, INC.;  
KNIGHT REFRIGERATED, LLC; KNIGHT-SWIFT TRANSPORTATION HOLDINGS, INC.; CAROL WALKER.

## Defendants

Case No. 3:17-cv-00172-LRH-WGC

ORDER

Before the court is plaintiffs Don Rathburn and Teresa Rathburn's Motion to Consolidate these two cases (ECF No. 26). Defendants Knight Transportation, Inc.; Knight Refrigerated,

1 LLC; Knight-Swift Transportation Holdings, Inc.; and Carol Walker (“defendants”) have  
2 opposed the Motion (ECF No. 29). Both cases arise from a single tractor trailer collision with  
3 two motorcyclists, Joseph Knaack and plaintiff Don Rathburn. Knaack died at the scene and  
4 Rathburn, although seriously injured, recovered. The Knaack action is therefore a wrongful death  
5 action and the Rathburn action is a personal injury action.

6 While this motion has been pending, defendants have stipulated to liability arising from  
7 the underlying collision in both cases, and the stipulations have been approved by order of the  
8 court (*Rathburn* ECF No. 42 and *Knaack* ECF No. 60). Although the two actions arise under  
9 similar facts related to liability, the fact is that the nature of the wrongful death action and the  
10 nature of the personal injury action are significantly different and there is a risk of prejudice  
11 arising from consolidating the two cases for trial. Additionally, the two cases are on different  
12 time tracks: discovery and all pending motions having been completed in *Knaack*, a pretrial  
13 order has been entered, and jury trial has been set for January 8, 2019. Conversely, discovery in  
14 the Rathburn action will not be completed until December 14, 2018, and motion and pretrial  
15 order deadlines have not yet expired.

16 Good cause appearing, plaintiffs’ Motion to Consolidate ECF No. 26 is DENIED.

17 IT IS SO ORDERED.

18 DATED this 20th day of November, 2018.

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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE

